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BRIEF FOR RESPONDENT IN OPPOSITION

IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 713

THE SHOOT SAND AND GRAVEL CORPORATION, *Petitioner*,

v.

DISTRICT OF COLUMBIA, *Respondent*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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Underwood Typewriter Co. v. Chamberlain, 254 U.S. 113, 41 S. Ct. 45, 65 L. Ed. 165 8

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CONSTITUTIONAL PROVISIONS, STATUTES AND REGULATIONS CITED

Constitutional Provisions Cited 1

Statutes Cited:

District of Columbia Income and Franchise Tax Act of 1947, 61 Stat. 328, ch. 258, as amended by the Act of May 3, 1948, 62 Stat. 206, ch. 246, and by Title IV, District of Columbia Revenue Act of 1949, 63 Stat. 112, ch. 146, and by Title XII of the District of Columbia Public Works Act of 1954, 68 Stat. 101, ch. 218 ..... 2, 3, 4, 7

Regulations Cited:

Regulations promulgated by the Commissioners of the District of Columbia pursuant to the District of Columbia Income and Franchise Tax Act of 1947, as amended 2, 3, 4, 7, 8

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BRIEF FOR RESPONDENT IN OPPOSITION

OPINIONS BELOW

The opinion of the United States Court of Appeals is reported at 261 F. 2d 758. The opinion of the District of Columbia Tax Court (R. 34-66) is not reported.

CONSTITUTIONAL PROVISIONS, STATUTES AND REGULATIONS INVOLVED

Petitioner, although it relies upon the Fifth and Fourteenth Amendments to the Constitution, has not included

the text of these Amendments in its petition for writ of certiorari. Respondent, although it does not believe that the Fifth and Fourteenth Amendments to the Constitution are applicable in this case, has, for the convenience of the Court included in the appendix to its brief, the text of the Amendments together with the Statutes and Regulations involved.

Statutes Involved

Section 4(h), Article I, Title I, Sections 1 and 2(a), Article I, Title III, Sections 1 and 2, Article I, Title VII, Sections 1 and 2, Article I, Title X, District of Columbia Income and Franchise Tax Act of 1947, 61 Stat. 328, ch. 258, as amended by the Act of May 3, 1948, 62 Stat. 206, ch. 246, and by Title IV, District of Columbia Revenue Act of 1949, 63 Stat. 112, ch. 146, and by Title XII of the District of Columbia Public Works Act of 1954, 68 Stat. 101, ch. 218.

Regulations Involved

There is no official citation for the Regulations promulgated by the Commissioners of the District of Columbia under the District of Columbia Income and Franchise Tax Act of 1947, as amended.

QUESTIONS PRESENTED

In the view of respondent, the questions presented are:

1. Where the District of Columbia Income and Franchise Tax Act of 1947, as amended, provides for the imposition of a franchise tax upon corporations engaged in business in the District of Columbia measured by "that portion of the net income of the corporation or unincorporated business as is fairly attributable to any trade or business carried on or engaged in within the District and such other net income as is derived from sources within